

WEST VIRGINIA CODE: §3-5-19

§3-5-19. Vacancies in nominations; how filled; fees.

(a) If any vacancy occurs in the party nomination of candidates for office nominated at the primary election or by appointment under the provisions of section eleven of this article, the vacancies may be filled, subject to the following requirements and limitations:

(1) Each appointment made under this section shall be made by the executive committee of the political party for the political division in which the vacancy occurs: Provided, That if the executive committee holds a duly called meeting in accordance with section nine, article one of this chapter but fails to make an appointment or fails to certify the appointment of the candidate to the proper filing officer within the time required, the chairperson of the executive committee may make the appointment not later than two days following the deadline for the executive committee.

(2) Each appointment made under this section is complete only upon the receipt by the proper filing officer of the certificate of appointment by the executive committee, or its chairperson, as the case may be, the certificate of announcement of the candidate as prescribed in section seven of this article and, except for appointments made under subdivision (4), (5), (6) or (7) of this subsection, the filing fee or waiver of fee as prescribed in section eight or eight-a of this article. The proper filing officer is the officer with whom the original certificate of announcement is regularly filed for that office.

(3) If a vacancy in nomination will be caused by the failure of a candidate to file for an office, or by withdrawal of a candidate no later than the third Tuesday following the close of candidate filing pursuant to the provisions of section eleven of this article, a nominee may be appointed by the executive committee and certified to the proper filing officer no later than thirty days after the last day to file a certificate of announcement pursuant to section seven of this article.

(4) If a vacancy in nomination is caused by the disqualification of a candidate and the vacancy occurs not later than eighty-four days before the general election, a nominee may be appointed by the executive committee and certified to the proper filing officer not later than seventy-eight days before the general election. A candidate may be determined disqualified if a written request is made by an individual with information to show a candidate's ineligibility to the State Election Commission no later than eighty-four days before the general election explaining grounds why a candidate is not eligible to be placed on the general election ballot or not eligible to hold the office, if elected. The State Election Commission shall review the reasons for the request. If the commission finds the circumstances warrant the disqualification of the candidate, the commission shall authorize appointment by the executive committee to fill the vacancy. Upon receipt of the authorization a nominee may be appointed by the executive committee and certified to the proper filing officer no later than seventy-eight days before the general election.

(5) If a vacancy in nomination is caused by the incapacity of the candidate and if the vacancy occurs not later than eighty-four days before the general election, a nominee may be appointed by the executive committee and certified to the proper filing officer no later than seventy-eight days before the general election.

(6) If a vacancy in nomination is caused by the timely filing of a notarized statement of withdrawal, according to section eleven of this article, of a candidate whose name would otherwise appear on the general election ballot, a replacement on the general election ballot may be appointed by the executive committee and certified to the proper filing officer no later than seventy-eight days before the general election.

(7) If a vacancy in nomination is caused by the death of the candidate occurring no later than twenty-five days before the general election, a nominee may be appointed by the executive committee and certified to the proper filing officer no later than twenty-one days following the date of death or no later than twenty-two days before the general election, whichever date occurs first.

(b) Except as otherwise provided in article ten of this chapter, if any vacancy occurs in a partisan office or position other than political party executive committee, which creates an unexpired term for a position which would not otherwise appear on the ballot in the general election, and the vacancy occurs after the close of candidate filing for the primary election but not later than eighty-four days before the general election, a nominee of each political party may be appointed by the executive committee and certified to the proper filing officer no later than seventy-eight days before the general election. Appointments shall be filed in the same manner as provided in subsection (a) of this section, except that the filing fee shall be paid before the appointment is complete.

(c) When a vacancy occurs in the board of education after the close of candidate filing for the primary election but not later than eighty-four days before the general election, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for board of education shall file a certificate of announcement and pay the filing fee to the clerk of the county commission no earlier than the first Monday in August and no later than seventy-seven days before the general election.